

Exhibit A

In the Matter of:
BRADLEY AND KRISTAN STUBBLEFIELD
VS
SUZUKI MOTOR CORPORATION, ET AL.

MALOUF, JR. , MICHAEL J. Vol 1
September 11, 2017

eDeposition
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BRADLEY AND KRISTAN STUBBLEFIELD vs SUZUKI MOTOR CORPORATION, ET AL.
Michael J. Malouf, Jr. - 09/11/2017

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
3 NORTHERN DIVISION
4 BRADLEY AND KRISTAN STUBBLEFIELD,
HUSBAND AND WIFE PLAINTIFFS
5 VS. CIVIL ACTION NO. 3:15CV18HTW-LRA
6 SUZUKI MOTOR CORP., A
FOREIGN CORPORATION; NISSIN KOGYO CO. LTD,
7 A LIMITED LIABILITY COMPANY;
AND XYZ CORPORATIONS 1-5 DEFENDANTS
8

9 *****

10 ORAL DEPOSITION OF
11 MICHAEL J. MALOUF, JR., ESQ.
12 SEPTEMBER 11, 2017
13 Volume 1 of 1
14

15

16

17 ORAL DEPOSITION OF MICHAEL J. MALOUF, JR.,
18 ESQ., produced as a witness at the instance of the
19 Defendant Suzuki Motor Corp., and duly sworn, was
20 taken in the above-styled and -numbered cause on the
21 11th day of September, 2017, before Melinda Bowers,
22 CCR in and for the State of Mississippi, reported by
23 machine shorthand, at the offices of Butler Snow
24 1020 Highland Colony Parkway, Suite 1400, in the
25 City of Ridgeland, State of Mississippi.

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<p>1 APPEARANCES</p> <p>2 FOR THE PLAINTIFF(S):</p> <p>3 Michael J. Malouf, Jr., Esq. 4 Malouf & Malouf, PLLC 5 501 East Capitol Street Jackson, Mississippi 39201 mikejr@malouflaw.com</p> <p>6 Richard Randolph Edwards, Esq. (via telephone) 7 Cochran & Edwards 8 2950 Atlanta Road Smyrna, Georgia 30080 randy@cochranedwardsllaw.com</p> <p>9 FOR THE WITNESS:</p> <p>10 Michael J. Malouf, Sr., Esq. 11 Malouf & Malouf, PLLC 12 501 East Capitol Street Jackson, Mississippi 39201 mike@malouflaw.com</p> <p>13 FOR THE DEFENDANT NISSIN KOGYO CO. LTD:</p> <p>14 Mark D. Jicka, Esq. 15 Caroline Kunz Ivanov, Esq. 16 Watkins & Eager 17 400 East Capitol Street Jackson, Mississippi 39201 18 mjicka@watkinseager.com civanov@watkinseager.com</p> <p>19 FOR THE DEFENDANT SUZUKI MOTOR CORP.:</p> <p>20 Robert A. Miller, Esq. 21 William Polk Thomas, Esq. 22 Butler Snow 1020 Highland Colony Parkway, Suite 1400 23 Ridgeland, Mississippi 39157-8719 bobby.miller@butlersnow.com 24 will.thomas@butlersnow.com 25</p>	<p>1 INDEX</p> <p>2 PAGE</p> <p>3 Appearances.....2</p> <p>4 Stipulations.....4</p> <p>5 MICHAEL J. MALOUF, JR., ESQ.</p> <p>6 Examination by Mr. Miller.....7</p> <p>7 Examination by Mr. Malouf, Sr.....59</p> <p>8 Changes and Corrections.....63</p> <p>9 Reporter's Certificate.....65</p> <p>10</p> <p>11 EXHIBIT INDEX</p> <p>12 DEPOSITION PAGE</p> <p>13 EXHIBIT MARKED</p> <p>14 No. 1 Order from Judge Wingate.....6</p> <p>15 No. 2 Notice of Deposition.....6</p> <p>16 No. 3 Subpoena.....6</p> <p>17 No. 4 Letter dated October 17, 2014.....18</p> <p>18 No. 5 Letter dated October 21, 2014.....19</p> <p>19 No. 6 Letter dated July 30, 2015.....21</p> <p>20 No. 7 Letter dated August 2, 2016.....36</p> <p>21 No. 8 Affidavit by Todd Hoover.....42</p> <p>22 No. 9 E-mail dated July 29, 2016.....55</p> <p>23</p> <p>24</p> <p>25</p>
<p>1 STIPULATIONS</p> <p>2 It is stipulated by and between the</p> <p>3 parties hereto and their respective attorneys at law</p> <p>4 that the deposition on oral examination of the</p> <p>5 witness, MICHAEL J. MALOUF, JR., ESQ., may be taken</p> <p>6 before Melinda Bowers, CCR, Commissioner, Notary</p> <p>7 Public for Lauderdale County, Mississippi, and that</p> <p>8 the said deposition shall be taken in accordance</p> <p>9 with the provisions of the applicable sections of</p> <p>10 the Federal Rules of Civil Procedure.</p> <p>11 It is further stipulated that all notices</p> <p>12 provided for by said applicable sections of the</p> <p>13 Federal Rules of Civil Procedure are waived, except</p> <p>14 as to the reading over of said deposition to or by</p> <p>15 the witness, the signing thereof by him/her and the</p> <p>16 signing and certification of said Melinda Bowers,</p> <p>17 CCR, and all other requirements and technicalities</p> <p>18 of every sort regarding the taking and filing of the</p> <p>19 deposition, except as hereinafter set out:</p> <p>20 All objections saved as to the form of the</p> <p>21 question asked are reserved until the time of trial</p> <p>22 in accordance with the applicable provisions of the</p> <p>23 said Federal Rules of Civil Procedure.</p> <p>24</p> <p>25</p>	<p>1 It is further stipulated that the original</p> <p>2 of this transcript will be delivered to Robert A.</p> <p>3 Miller, Esq., as custodian, for filing should the</p> <p>4 Court so direct.</p> <p>5</p> <p>6 *****</p> <p>7</p> <p>8 I, Melinda Bowers, CCR, Commissioner and</p> <p>9 Court Reporter, certify that on this date, as</p> <p>10 provided by the Federal Rules of Civil Procedure and</p> <p>11 the foregoing stipulation of counsel, there came</p> <p>12 before me at the offices of Butler Snow 1020</p> <p>13 Highland Colony Parkway, Suite 1400, Ridgeland,</p> <p>14 Mississippi, on the 11th of September, 2017,</p> <p>15 commencing at approximately 9:33 a.m., witness in</p> <p>16 the above cause, for oral examination, whereupon the</p> <p>17 following proceedings were had:</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p style="text-align: right;">Page 6</p> <p>1 MICHAEL J. MALOUF, JR., ESQ., 2 the witness, having first been duly sworn 3 to tell the truth, the whole truth, and nothing but 4 the truth, was examined and testified as follows: 5 MR. MILLER: Let the record reflect that 6 the deposition of Mr. Mike Malouf, Jr. was 7 taken pursuant to order of the Court and the 8 notice and subpoena and pursuant to the Federal 9 Rules of Civil Procedure. 10 And, Mike, do you want to read and sign 11 your deposition? 12 THE WITNESS: Sure. 13 MR. MILLER: All right. He'll read and 14 sign. 15 I want to attach as Exhibit 1 the order 16 from Judge Wingate. And Exhibit 2 will be the 17 re-notice of taking video -- well, we're not 18 taking the video deposition, but that's what it 19 says, notice of the deposition. 20 (Exhibits 1 and 2 were marked.) 21 MR. MILLER: And Exhibit 3 will be the 22 subpoena. 23 MR. MALOUF, SR.: Do you have a copy of 24 that Exhibit 2? 25 (Exhibit 3 was marked.)</p>	<p style="text-align: right;">Page 7</p> <p>1 EXAMINATION 2 BY MR. MILLER: 3 Q Exhibit 3 is the subpoena duces tecum and 4 there is a Schedule A that requests a number of 5 items having to do with the motorcycle and some test 6 riding that was done by Preston Lind. Did you bring 7 any documents with you pursuant to the subpoena? 8 A I did not bring you any documents. I've 9 given you the documents earlier, the letter with the 10 documents from Jeff Hyatt with regard to the chain 11 of custody. I did a search for Preston Lind and -- 12 what else did you ask for? I did a search on 13 Preston Lind. I did not have any texts or e-mails 14 or anything with regard to Preston Lind. That must 15 have been on an old phone, may have been 16 destroyed -- not destroyed but just turned in over 17 time. 18 But I also did a search for Dan 19 Stubblefield. I only sent one e-mail to Dan 20 Stubblefield. It was his deposition so that was in 21 June-ish of 2017. It was just an e-mail saying 22 here's your deposition. He was supposed to read and 23 sign. So that -- that was an e-mail to him. No 24 other e-mails to and from Dan Stubblefield. 25 There was a few texts to Dan</p>
<p style="text-align: right;">Page 8</p> <p>1 Stubblefield. It was June 2017, also about his 2 deposition. He asked me to call him. It just said, 3 "Call me." And then I sent him some texts in August 4 of 2017 related to photographs that we were 5 produced. I asked him to -- if he had photographs 6 of Dan's -- of the son. And so it was a few texts 7 to him. Other than that, there were no other texts. 8 There certainly weren't any texts between -- I don't 9 know that I've ever texted him before his 10 deposition. 11 Q Okay. But you did send some e-mails to 12 Dan Stubblefield? 13 A I sent one e-mail to Dan Stubblefield and 14 I can produce that to you, but it was a -- it was an 15 e-mail regarding -- it -- it attached his 16 deposition. It didn't even say anything other 17 than -- I'm not aware of it saying anything other 18 than, "Here's your deposition," for him to read it. 19 Q So you produced everything in your custody 20 having to do with the chain of custody subject 21 motorcycle from the date of the accident to the 22 present? 23 A Yes. 24 Q Have you ever given a deposition before, 25 Mike?</p>	<p style="text-align: right;">Page 9</p> <p>1 A I was trying to think about that the other 2 day. I know -- I know Butler Snow has asked me to 3 give a deposition before. I think we started the 4 deposition. I don't think I ever gave a deposition. 5 As I sit here today, I don't know that I've given 6 another deposition. 7 Q Okay. 8 A It's possible but it would have been 20 9 years plus. 10 Q All right. I'm going to ask you some 11 questions about your background and -- and how long 12 have you been practicing law? 13 A Twenty years. 14 Q And have you done litigation during that 15 entire time? 16 A Yeah. Sure. 17 Q And is most of that civil litigation as 18 opposed to criminal? 19 A Sure. Yes. 20 Q And what percentage of that work in civil 21 litigation is related to product liability over the 22 last 20 years? 23 A Maybe -- 24 MR. MALOUF, SR.: You counting this case? 25 THE WITNESS: Well, it doesn't --</p>

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<p style="text-align: right;">Page 10</p> <p>1 MR. MALOUF, SR.: Percentage goes up with 2 this case. 3 A Yeah. I mean, less than -- less than 4 10 percent. Maybe less than 5 percent. Most of my 5 stuff is workers' comp, automobile, stuff of that 6 nature, so products liability are few and far 7 between. 8 BY MR. MILLER: 9 Q All right. And you've been involved in a 10 couple of cases that have been reported like the 11 Estes v. Lyon Workspace Products. Do you recall 12 that? 13 A Yeah, I do. 14 Q All right. And did both you and your 15 father Mike Malouf, Sr. work on that case? 16 A Yes, we did. I'm trying to recall that 17 litigation. But, sure, I recall the name, yes. 18 Q And what was the product involved in that? 19 A That's what I'm sitting here thinking 20 about. It was more -- it was a workers' comp case 21 that involved into a -- oh, it was a chair. He was 22 a welder. The chair failed. 23 Q Okay. And then there's a Palmer v. 24 Volkswagen of America, Inc. case that you were 25 involved in; is that correct?</p>	<p style="text-align: right;">Page 11</p> <p>1 A Yeah. Sure. That was air bag litigation. 2 Q All right. And was Mr. Jicka who is 3 present here involved in that case? 4 A I don't think so. Huh-uh. 5 Q I was just curious. 6 A No. That was David Ayers and other nice 7 attorneys. 8 MR. MALOUF, SR.: And Judge Yerger. That 9 was the main party, Judge Yerger. 10 BY MR. MILLER: 11 Q Okay. Your firm has a website and it 12 says, "Guiding clients through the claims process 13 since 1970." It says, "The law offices of Malouf & 14 Malouf, PLLC has successfully handled dangerous 15 product liability claims on behalf of our clients 16 for numerous years. Our Jackson injury attorneys 17 have filed claims involving automobiles, toys, 18 furniture, tractors, food products, and 19 pharmaceutical drugs. If you have been injured as a 20 result of a defective product, our experienced team 21 can help you pursue justice. We evaluate your claim 22 without charge, and if we determine that you have a 23 meritorious case, we then offer representation on a 24 contingency fee basis. This means we are only paid 25 if we make a recovery on your behalf."</p>
<p style="text-align: right;">Page 12</p> <p>1 So, with that statement as part of 2 your website, you would agree that your firm holds 3 itself out as being competent to handle product 4 liability cases? 5 A We're certainly competent to handle 6 product liability cases. With regard to the exact 7 wording of the website, a company does that for us 8 and, in all honesty, I don't know that I've reviewed 9 that language in years, and that's the language they 10 put up there. But, yes, we are competent to handle 11 product liability cases. 12 Q And product liability cases usually -- not 13 usually, but always involve some sort of product 14 that's a physical object. And if it is available, 15 it needs to be preserved as evidence, doesn't it? 16 A Sure. 17 Q Are there any other types of cases besides 18 product cases where physical objects need to be 19 preserved? 20 A As I sit here today, I -- I don't know. 21 Q Okay. I want to get into your experience 22 riding motorcycles. Have you ever owned a 23 motorcycle? 24 A Yes. 25 Q What kind of motorcycle?</p>	<p style="text-align: right;">Page 13</p> <p>1 A It was a while back. I think it was a 2 Yamaha, maybe FJ1100. 3 Q And how long ago did you have that 4 motorcycle? 5 A How long ago did I have it? 6 Q Right. 7 A I had it in college. So... 8 MR. MALOUF, SR.: I didn't know about it, 9 though. You can put that in there. 10 BY MR. MILLER: 11 Q Did you have a motorcycle endorsement on 12 your driver's license? 13 A No. 14 Q How long did you have your Yamaha 15 motorcycle? 16 A Maybe a year. 17 Q And that was a street motorcycle? 18 A Yeah. 19 Q Okay. And how many miles did you put on 20 it? 21 A I have no idea. 22 Q Did you take it on cross-country trips 23 or -- 24 A No. 25 Q -- did you ride around town?</p>

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<p style="text-align: right;">Page 14</p> <p>1 A No. I drove it to Oxford and thought I</p> <p>2 was going to die with the wind shear and everything</p> <p>3 else. So it's not something you take -- not</p> <p>4 something I take more than five or ten miles.</p> <p>5 Q Okay. When you say with the wind shear,</p> <p>6 what do you mean by that?</p> <p>7 A Well, you don't have a windshield.</p> <p>8 Q Oh, windshield. I thought you said shear.</p> <p>9 Okay. It did not have a wind -- windshield?</p> <p>10 A Huh-uh. It was my face.</p> <p>11 Q All right. Did you have any training in</p> <p>12 riding motorcycles?</p> <p>13 A No.</p> <p>14 Q Did you ever ride dirt bikes?</p> <p>15 A Not -- no.</p> <p>16 Q Okay.</p> <p>17 A I have before, but nothing to speak of.</p> <p>18 Q How many hours total do you think you</p> <p>19 operated your Yamaha motorcycle?</p> <p>20 A It would be a pure guess. I have no idea.</p> <p>21 I rode it to class a few times. Rode it on the</p> <p>22 weekends a few times. If I rode it, I would not</p> <p>23 ride it more than 30 minutes on a trip. I had it</p> <p>24 for a year. A bunch of friends had one. We'd go</p> <p>25 riding, so I can't -- I can't tell you.</p>	<p style="text-align: right;">Page 15</p> <p>1 Q Did you buy it new or used?</p> <p>2 A Used.</p> <p>3 Q Okay. And I guess you sold it eventually?</p> <p>4 A I did.</p> <p>5 Q And how much did you sell it for?</p> <p>6 MR. MALOUF, SR.: Is all of this relevant,</p> <p>7 Bobby? The purchase of his motorcycle 25 years</p> <p>8 ago, is that relevant?</p> <p>9 MR. MILLER: I'm just trying to get into</p> <p>10 his experience and condition of motorcycle.</p> <p>11 MR. MALOUF, SR.: Well, selling a</p> <p>12 motorcycle is not -- I'm going to tell him not</p> <p>13 to answer that one.</p> <p>14 MR. MILLER: That's fine.</p> <p>15 BY MR. MILLER:</p> <p>16 Q When you operated this motorcycle, did you</p> <p>17 use both the front brake and the rear brake when you</p> <p>18 were braking?</p> <p>19 A Have I ever used the back brake on it?</p> <p>20 Probably. But on an average stop, no, I use front</p> <p>21 brake only.</p> <p>22 Q Did you ever do any work on the brakes on</p> <p>23 that motorcycle?</p> <p>24 A Never.</p> <p>25 Q Did you ever ride friends' motorcycles in</p>
<p style="text-align: right;">Page 16</p> <p>1 the last 30 years or so?</p> <p>2 A When I was in college, --</p> <p>3 Q Yes.</p> <p>4 A -- I had a ton of friends that had</p> <p>5 motorcycles. We all had motorcycles. I rode their</p> <p>6 motorcycles. Since then, I have not ridden a</p> <p>7 motorcycle.</p> <p>8 Q You were attorney of record for the</p> <p>9 Stubblefields in this case in the accident that</p> <p>10 occurred in January 2012, involved Bradley</p> <p>11 Stubblefield. And after that time, at some point in</p> <p>12 time, you came to represent them; is that correct?</p> <p>13 A Sure.</p> <p>14 Q Okay. And do you recall that there was a</p> <p>15 pre-litigation inspection of the subject motorcycle,</p> <p>16 a GSXR1000 on September 4, 2014?</p> <p>17 A Yeah. I had sent Suzuki a letter back,</p> <p>18 what, six or seven months before that in April,</p> <p>19 asking them to come to preserve the bike, inspect</p> <p>20 the bike, and analyze the bike. It took about six</p> <p>21 or seven months, whatever, and subsequently they</p> <p>22 came. They did a protocol, and the bike was</p> <p>23 thoroughly inspected in September of 2014 by Suzuki</p> <p>24 and Nissin.</p> <p>25 Q Do you recall the names of the</p>	<p style="text-align: right;">Page 17</p> <p>1 representatives who were there?</p> <p>2 A No. I was looking at that because there</p> <p>3 were certain comments made there by those</p> <p>4 representatives and I have not gone back to the</p> <p>5 roll call to see who made those certain comments and</p> <p>6 stuff.</p> <p>7 Q And what comments were those?</p> <p>8 A Well, just what they saw, what they</p> <p>9 observed, and the comment that sticks out most from</p> <p>10 everything was -- I believe it was an N.K. -- it was</p> <p>11 an older gentleman with a grayish hair. I remember</p> <p>12 when everybody was taking photographs, he came up</p> <p>13 and asked me if he could pull the brake. I said,</p> <p>14 "Well, does it matter if you pull the brake?" He</p> <p>15 said, "No." I said, "Well, then you can pull the</p> <p>16 brake." And he started pulling the brake before we</p> <p>17 did any of the inspections, and I just remember he</p> <p>18 and I had that conversation whether or not pulling</p> <p>19 the brake would affect anything and he said no. So</p> <p>20 I said, "Sure."</p> <p>21 Q How many times did he pull the brake?</p> <p>22 A In my presence while I was kind of looking</p> <p>23 there, maybe two or three.</p> <p>24 Q All right. And then later, there was some</p> <p>25 force measurements taken of the front brake lever;</p>

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<p style="text-align: right;">Page 18</p> <p>1 is that correct?</p> <p>2 A There were.</p> <p>3 Q Yeah. Okay. Following that inspection,</p> <p>4 did you receive this letter dated October 17, 2014</p> <p>5 from Suzuki from Cathi Black?</p> <p>6 A Yeah. I didn't receive it on this date.</p> <p>7 But I subsequently did receive it.</p> <p>8 Q Okay.</p> <p>9 MR. MILLER: Make that Exhibit 4.</p> <p>10 (Exhibit 4 was marked.)</p> <p>11 BY MR. MILLER:</p> <p>12 Q The last paragraph of the letter says,</p> <p>13 "Should your client choose to continue to pursue</p> <p>14 this claim, please preserve the motorcycle in its</p> <p>15 current condition. Also, if you plan to do any</p> <p>16 further inspection or testing of the motorcycle,</p> <p>17 please give us prior notice to give us an</p> <p>18 opportunity to be present." Do you recall reading</p> <p>19 that?</p> <p>20 A At some point, I did.</p> <p>21 Q Okay.</p> <p>22 MR. MALOUF, SR.: Did you make that an</p> <p>23 exhibit?</p> <p>24 MR. MILLER: Four.</p> <p>25 A But I will say that statement was</p>	<p style="text-align: right;">Page 19</p> <p>1 certainly inconsistent with the statements that were</p> <p>2 made at the inspection.</p> <p>3 BY MR. MILLER:</p> <p>4 Q How is that?</p> <p>5 A Because Suzuki and Nissin both made it</p> <p>6 very clear that they weren't going to do any other</p> <p>7 inspections, that they were done, they had seen</p> <p>8 everything they wanted to see and, upon their</p> <p>9 belief, the bike was not defective. So their</p> <p>10 participating in any other inspections certainly was</p> <p>11 not going to happen based on their -- what they told</p> <p>12 me at that time.</p> <p>13 Q And then on -- sometime later in October,</p> <p>14 this letter is dated October 21, 2014 from Mr. Mark</p> <p>15 D. Jicka at Watkins & Eager. Did you receive that</p> <p>16 letter?</p> <p>17 A I obviously did. Do I recall receiving</p> <p>18 this letter, I do not. But it was made an exhibit</p> <p>19 later. But I'm -- I'm sure I did. You asked me do</p> <p>20 I recall receiving it, I do not.</p> <p>21 MR. MILLER: I want to make that</p> <p>22 Exhibit 5.</p> <p>23 (Exhibit 5 was marked.)</p> <p>24 BY MR. MILLER:</p> <p>25 Q And this letter says, "The experts also</p>
<p style="text-align: right;">Page 20</p> <p>1 determined that the measured brake lever resistance</p> <p>2 force was sufficient and that the front brake was</p> <p>3 functional and capable of stopping</p> <p>4 Mr. Stubblefield's motorcycle." And then it says,</p> <p>5 "If you decide to continue with this claim or to</p> <p>6 file suit, please preserve the motorcycle in its</p> <p>7 current condition. Also, if you plan to do any</p> <p>8 further inspection or testing of the motorcycle,</p> <p>9 please give us prior notice so we can -- so we can</p> <p>10 have an opportunity to be present." And did you</p> <p>11 understand that last paragraph, that they wanted</p> <p>12 it -- that --</p> <p>13 A Sure.</p> <p>14 Q -- Nissin Kogyo wanted to be present if</p> <p>15 you tested it again?</p> <p>16 A It was very similar to your letter. Like</p> <p>17 I said, I don't know when I received it but that's</p> <p>18 exactly what was done for that first inspection.</p> <p>19 Q Then after we got into litigation, Kat</p> <p>20 Carrington of our office sent you a letter dated</p> <p>21 July 30, 2015. Do you recall getting that?</p> <p>22 A I don't specifically recall receiving it</p> <p>23 but I have read it before. It's part of y'all's</p> <p>24 motions.</p> <p>25 MR. THOMAS: I think this one has been</p>	<p style="text-align: right;">Page 21</p> <p>1 marked up, this copy, so...</p> <p>2 MR. MILLER: Okay. We'll use this copy.</p> <p>3 MR. THOMAS: Is that one marked up?</p> <p>4 MR. MILLER: Huh-uh.</p> <p>5 MR. THOMAS: Okay. And that's --</p> <p>6 MR. MILLER: Okay. Make that Exhibit 6.</p> <p>7 (Exhibit 6 was marked.)</p> <p>8 BY MR. MILLER:</p> <p>9 Q Do you recall this letter with the ASTM</p> <p>10 standards attached?</p> <p>11 A I recall it during the motion. I don't</p> <p>12 recall receiving it in June or July, whenever it was</p> <p>13 sent, 2015.</p> <p>14 Q And the third paragraph says, "The subject</p> <p>15 motorcycle is an important piece of evidence for all</p> <p>16 parties involved." And do you agree with that?</p> <p>17 A Yeah, which is why I had you guys come and</p> <p>18 preserve the motorcycle at the first inspection.</p> <p>19 Q And, also, the -- in that same paragraph,</p> <p>20 Kat says, "We request that the subject motorcycle</p> <p>21 remain stationary and be stored in a dry, secure</p> <p>22 area and not be used." Do you recall that?</p> <p>23 A No, I don't recall that.</p> <p>24 MR. MILLER: Bless you.</p> <p>25 THE COURT REPORTER: Thank you.</p>

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<p style="text-align: right;">Page 22</p> <p>1 BY MR. MILLER:</p> <p>2 Q Have you ever reviewed the ASTM standards</p> <p>3 regarding the preservation of evidence?</p> <p>4 A Not before -- not that I recall.</p> <p>5 Q I mean, like in other cases before this</p> <p>6 one, did you have any occasion to review these</p> <p>7 standards?</p> <p>8 A No.</p> <p>9 Q One of the standards is designated</p> <p>10 E 1188-05. The other one is E 860-97. Did you read</p> <p>11 these standards when Kat sent them to you?</p> <p>12 A I read them at some point.</p> <p>13 Q And do you agree that Kat's letter, the</p> <p>14 second to the last paragraph says, "If your clients</p> <p>15 contemplate selling the subject motorcycle,</p> <p>16 disposing of the subject motorcycle, altering the</p> <p>17 subject motorcycle, disassembling the subject</p> <p>18 motorcycle, testing the subject motorcycle, or</p> <p>19 engaging in any other activities which in any way</p> <p>20 may alter the post-accident condition of the subject</p> <p>21 motorcycle, including altering any evidence such as</p> <p>22 markings and scratchings on the subject motorcycle,</p> <p>23 please notify me immediately." Do you agree that's</p> <p>24 what she said?</p> <p>25 A The letter says what it says. I mean,</p>	<p style="text-align: right;">Page 23</p> <p>1 whatever the letter says.</p> <p>2 Q Then she says, "If your clients have</p> <p>3 altered or changed the subject motorcycle in any way</p> <p>4 since the accident, please tell us in detail what</p> <p>5 changes or alterations have been made." Do you</p> <p>6 agree that's what it says on the second page?</p> <p>7 A Yes.</p> <p>8 Q Okay. Have you gotten or received</p> <p>9 evidence preservation letters in other cases before</p> <p>10 this one?</p> <p>11 A No.</p> <p>12 Q Have you got -- have you received any</p> <p>13 evidence preservation letters in any cases after</p> <p>14 this one was filed?</p> <p>15 A Not that I'm aware of, no.</p> <p>16 Q Okay. There was some riding of the</p> <p>17 subject motorcycle conducted by a young man named</p> <p>18 Preston Lind and I'm going to ask you some questions</p> <p>19 about him. How did you happen to know Preston Lind?</p> <p>20 A I didn't know him. I was asking friends,</p> <p>21 asking mechanics, asking anybody I knew if they knew</p> <p>22 a professional motorcycle rider, and his name came</p> <p>23 up. And I don't even know how I got in touch with</p> <p>24 him but his name came up and I contacted him and he</p> <p>25 said he was an experienced rider.</p>
<p style="text-align: right;">Page 24</p> <p>1 Q And how did you contact him? I mean, did</p> <p>2 you call him or --</p> <p>3 A Yeah. Just called him.</p> <p>4 Q Okay. How did you get his number?</p> <p>5 A One of my contact friends, a friend of a</p> <p>6 friend I think led me on to him.</p> <p>7 Q All right. Do you know who that was?</p> <p>8 A No.</p> <p>9 Q Did you ever meet his mother, Jennifer</p> <p>10 Lind?</p> <p>11 A No. I mean, I -- I think I knew her as</p> <p>12 kids. I had no idea they were related. But I think</p> <p>13 we knew -- I knew her as a child, I guess.</p> <p>14 Q I mean, did you talk to her at all since</p> <p>15 childhood?</p> <p>16 A No. No. I -- no.</p> <p>17 Q Have you talked to her at all in the last</p> <p>18 two years?</p> <p>19 A No. I didn't know that was her child</p> <p>20 until the day of her deposition.</p> <p>21 Q What did you ask Mr. Lind to do?</p> <p>22 A I asked Mr. Lind to evaluate whether or</p> <p>23 not -- or to tell me if that motorcycle was</p> <p>24 performing as he expected.</p> <p>25 Q Do you have any -- did you have any</p>	<p style="text-align: right;">Page 25</p> <p>1 background information on the types of motorcycles</p> <p>2 Mr. Lind had ridden?</p> <p>3 A No.</p> <p>4 Q Do you know if he had ever ridden a Suzuki</p> <p>5 before?</p> <p>6 A No.</p> <p>7 Q And how was he going to evaluate this</p> <p>8 particular motorcycle?</p> <p>9 A I guess just based on his experience.</p> <p>10 We -- we had nothing to compare it to, and so that's</p> <p>11 why I didn't really consider it a scientific or</p> <p>12 valid test. It was merely an observation for me to</p> <p>13 go forward with the litigation.</p> <p>14 Q And when did you contact him, in what</p> <p>15 month and year?</p> <p>16 A It would have been shortly before his ride</p> <p>17 and after -- after your inspection.</p> <p>18 Q So it would have been after the</p> <p>19 September 4, 2014 inspection?</p> <p>20 A Yes.</p> <p>21 Q Okay. I believe you said later in a</p> <p>22 letter that you wrote to me that the riding was in</p> <p>23 November; is that correct?</p> <p>24 A It was the last part of October, first</p> <p>25 part of November. It was -- it was -- my best</p>

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<p style="text-align: right;">Page 26</p> <p>1 recollection was the first of November, but it could 2 have been end of October.</p> <p>3 Q Did you agree to pay Mr. Lind for riding 4 the motorcycle?</p> <p>5 A I did.</p> <p>6 Q And did you pay him?</p> <p>7 A I have not paid him yet, no.</p> <p>8 Q Okay. How much did you agree to pay him?</p> <p>9 A I think we agreed to \$20 an hour.</p> <p>10 Q And how many hours did he have involved in 11 this test riding?</p> <p>12 A I think it was less than -- it was right 13 around an hour. And that's why once litigation got 14 involved, he was going to come back and do more 15 riding tests and he wanted to add it altogether and 16 I said, "Fine."</p> <p>17 Q Was there ever any writing of any kind, 18 like an e-mail or text message or anything like 19 that, between you and Preston Lind?</p> <p>20 A I don't have any text message. I don't 21 believe there was. I think it was all phone calls. 22 I know after when I was looking for him, I sent him 23 a text message because he wouldn't return my phone 24 calls.</p> <p>25 Q Uh-huh.</p>	<p style="text-align: right;">Page 27</p> <p>1 A But before that, I'm not aware that I sent 2 him any text messages. I could have but I just -- I 3 don't have them and I think everything was voice 4 calls.</p> <p>5 Q At some point in time, you provided me and 6 others with a telephone number for Preston Lind, 7 (850) 225-0007?</p> <p>8 A Uh-huh.</p> <p>9 Q And where did you get that number?</p> <p>10 A I think that's the number I always had for 11 him, I think.</p> <p>12 Q Was it stored on your cell phone or was it 13 written down somewhere?</p> <p>14 A It was not -- I don't know if I -- it 15 could have been stored in my phone. That would have 16 been the most likely way to get it. But I think 17 also at the same time, when I was looking for him, I 18 was calling all my mechanics to figure out who would 19 have his phone number or if it was an updated phone 20 number, so it was either -- either already on my 21 phone or contacting my friends who -- try to see if 22 I could find his phone number that way as well. So 23 one of those two.</p> <p>24 Q What is your cell phone provider?</p> <p>25 A Mine is C-Spire.</p>
<p style="text-align: right;">Page 28</p> <p>1 Q And is the account in the name of Michael 2 Malouf, Jr.?</p> <p>3 A No.</p> <p>4 Q What is -- what is the account?</p> <p>5 A Malouf Downtown Properties.</p> <p>6 Q Do you remember what day, what specific 7 day Preston Lind did the test riding?</p> <p>8 A No. You asked me that. I don't.</p> <p>9 Q And how did you get the motorcycle from 10 wherever it was to the JFC complex?</p> <p>11 A It was on a trailer.</p> <p>12 Q And whose trailer was it?</p> <p>13 A I think it was Dan Stubblefield's trailer.</p> <p>14 Q And where was the bike located before the 15 testing?</p> <p>16 A At the warehouse down on South State 17 Street.</p> <p>18 Q What is the name of the warehouse?</p> <p>19 A There's no name on it. It's just 856 20 South State Street.</p> <p>21 Q Okay. And is that something that you own 22 or lease?</p> <p>23 A I own it.</p> <p>24 Q And do you store objects that are related 25 to litigation there?</p>	<p style="text-align: right;">Page 29</p> <p>1 A I have.</p> <p>2 Q How did the motorcycle get to the 3 warehouse on South State Street from Dan 4 Stubblefield's garage?</p> <p>5 A On that trailer. It was on that trailer. 6 And I picked it up from his house, took it to the 7 warehouse, and it was stored there.</p> <p>8 Q Between the time of the inspection on 9 September 4, 2014, and this riding by Preston Lind, 10 did anybody operate the motorcycle in any way?</p> <p>11 A No.</p> <p>12 Q Did anybody crank the motorcycle or do 13 anything to it, change the oil or anything?</p> <p>14 A No. Not that I'm aware of.</p> <p>15 Q When you moved the motorcycle from the 16 warehouse to the JFC, which is Jackson Football Club 17 complex, did you and Preston Lind put the bike on 18 the trailer or did you do that by yourself?</p> <p>19 A It was already on the trailer.</p> <p>20 Q So it just stayed on the trailer?</p> <p>21 A Stayed on the trailer.</p> <p>22 Q And you think it was Dan Stubblefield's 23 trailer?</p> <p>24 A I believe so.</p> <p>25 Q Do you know where it is now, the trailer?</p>

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<p style="text-align: right;">Page 30</p> <p>1 A I -- Dan has it.</p> <p>2 Q Was this testing on a weekend, do you</p> <p>3 recall, or not?</p> <p>4 A Probably not.</p> <p>5 Q What time of day was the testing?</p> <p>6 A I have no -- I would assume 2:00.</p> <p>7 Q And what was the weather like that day?</p> <p>8 A Pretty day.</p> <p>9 Q All right. So the surface was dry?</p> <p>10 A Yeah.</p> <p>11 Q Did you give Mr. Lind any guidance or</p> <p>12 directions about what to do to test the bike?</p> <p>13 A I did not.</p> <p>14 Q What did you ask him to do?</p> <p>15 A I asked him to observe whether or not the</p> <p>16 front brake was proper.</p> <p>17 Q And did you ask him to use the rear brake?</p> <p>18 A No.</p> <p>19 Q And was anybody there besides you and</p> <p>20 Mr. Lind when he was riding the bike?</p> <p>21 A No.</p> <p>22 Q And where did this riding take place?</p> <p>23 A At the JFC soccer field, the same location</p> <p>24 that I met you and Mr. Hoover out there for him to</p> <p>25 do his riding test.</p>	<p style="text-align: right;">Page 31</p> <p>1 Q Okay. Part of that parking lot is -- or a</p> <p>2 lot of it is paved asphalt and some of it is what's</p> <p>3 called chip seal.</p> <p>4 A Uh-huh.</p> <p>5 Q Do you know what I'm talking about?</p> <p>6 A I do.</p> <p>7 Q Where did he ride the bike, or did he ride</p> <p>8 it on both surfaces or just one or the other?</p> <p>9 A Both.</p> <p>10 Q Okay. When he was testing the brakes,</p> <p>11 where was he riding the bike when he was applying</p> <p>12 the brakes?</p> <p>13 A Mostly on the chip seal.</p> <p>14 Q Did you take any photographs of this</p> <p>15 testing?</p> <p>16 A I did not.</p> <p>17 Q Did you take any video?</p> <p>18 A I did not.</p> <p>19 Q Did you take any notes?</p> <p>20 A No. There was nothing to take.</p> <p>21 Q Did you tell Preston Lind anything about</p> <p>22 Bradley Stubblefield's accident?</p> <p>23 A I'm sure I did. I mean, I'm sure I said</p> <p>24 that there's a question whether or not the front</p> <p>25 brakes will adequately stop while riding. And --</p>
<p style="text-align: right;">Page 32</p> <p>1 and I don't know that I would have told him anything</p> <p>2 else.</p> <p>3 Q Did you tell him what speed to operate the</p> <p>4 motorcycle?</p> <p>5 A I told him that -- not necessarily. I</p> <p>6 just said we think Mr. Stubblefield was going</p> <p>7 somewhere between 30 to 40 miles per hour.</p> <p>8 Q Did you -- tell me what you saw Preston</p> <p>9 Lind do after the bike was off the trailer.</p> <p>10 A He pulled the brake several times. And he</p> <p>11 was going to warm up the bike or test drive it</p> <p>12 because I wanted to make sure he was comfortable</p> <p>13 even doing it. So we put the brake in position six</p> <p>14 because that was the only position that would have</p> <p>15 any pressure to give him any type of assistance.</p> <p>16 And so he rode the bike around several laps, came</p> <p>17 back and said he felt comfortable to try to apply</p> <p>18 the brakes going 30 to 35 miles per hour. I said</p> <p>19 okay. And that's what he did.</p> <p>20 Q What type of brake levers were on the bike</p> <p>21 during this riding?</p> <p>22 A We didn't change any brake levers, so</p> <p>23 whatever was on there at the end of Suzuki's</p> <p>24 inspection. As I sit here today, I have no idea.</p> <p>25 But brake levers have never been changed or placed</p>	<p style="text-align: right;">Page 33</p> <p>1 by me, so...</p> <p>2 Q So you don't know whether there was</p> <p>3 aftermarket brake levers that were on at the time of</p> <p>4 the accident or the original equipment brake levers?</p> <p>5 A I do not know.</p> <p>6 Q So how many times did Mr. Lind apply</p> <p>7 brakes to stop the motorcycle?</p> <p>8 A I provided a letter earlier stating to the</p> <p>9 best of my recollection that he made several runs in</p> <p>10 my presence. How many times he pulled that front</p> <p>11 brake, I have no idea.</p> <p>12 Q Did you tell him anything about the</p> <p>13 potential that gravel at the accident scene might</p> <p>14 have had some -- something to do with</p> <p>15 Mr. Stubblefield's accident?</p> <p>16 A I have no idea. I don't specifically have</p> <p>17 that recollection or recall discussing that with</p> <p>18 him, gravel, but --</p> <p>19 Q Did you -- go ahead.</p> <p>20 A I don't recall.</p> <p>21 Q Okay. Did you ask Mr. Lind to try to</p> <p>22 brake in some gravel out there?</p> <p>23 A No. But -- no. No. I did not ask him to</p> <p>24 do any type of braking in gravel.</p> <p>25 Q Did you tell Mr. Lind that the brakes had</p>

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<p style="text-align: right;">Page 34</p> <p>1 not been used in almost three years? I think 2 2 years and 11 months. 3 A No. 4 Q Did you tell him that the brake fluid had 5 not been changed in the last two years and 11 months 6 at least? 7 A No. 8 Q So what do you recall happening out there 9 that day as far as what you observed Mr. Lind do? 10 A I recall him making several loops. I 11 recall asking him if he felt like the brake was 12 responsive, as he's familiar with his bikes. He 13 said no. I said, "Can we quantify that? Is there 14 any way we can decide? Do we -- can we quantify 15 it?" We had no instrumentation out there. And he 16 said, "Well, I'll try to" -- there were lines out 17 there. He was going to try to start applying the 18 brake at one line and see how far it would go. He 19 was not able -- he was not capable of stopping when 20 the line came up. And so that's all I recall. I 21 was sitting there. He could not do that. 22 I said, "Well, look, we need -- we 23 need something. We need instrumentation or 24 something to try to record this." We certainly 25 didn't have anything. So we stopped doing</p>	<p style="text-align: right;">Page 35</p> <p>1 everything. We weren't able to get any relevant 2 information out of it other than a general opinion, 3 which we already had, that the brakes were not being 4 responsive. 5 Q But you agree that it had been about two 6 years and 11 months since the brakes had been 7 operated on that motorcycle? 8 A Yes, sir. 9 Q When Mr. Lind rode it? 10 A Yes. 11 Q Now, how many laps did Mr. Lind ride the 12 motorcycle? 13 A I don't know. It would have been 2.7 14 miles worth, whatever that is, and I don't even know 15 the length. I know we went from one side to the 16 other side of the parking lot. So I know we did 17 several with the different brake positions, seeing 18 if that would make a difference. And so I know we 19 did several with different brake positions. But 20 that was it. 21 Q Okay. You wrote a letter to me and to 22 Mr. Mark Jicka dated August 2, 2016. Do you recall 23 that? 24 A I do. 25 MR. MILLER: I want to make this letter</p>
<p style="text-align: right;">Page 36</p> <p>1 Exhibit 7. 2 (Exhibit 7 was marked.) 3 BY MR. MILLER: 4 Q The first part of the letter is a chain of 5 custody of -- and this is something that the Court 6 ordered by order July 28, 2016, that you describe 7 the chain of custody; is that right? 8 A Yes. 9 Q And you said that from the date of the 10 accident, Dan Stubblefield had possession of the 11 bike in his personal garage, and I'm paraphrasing. 12 On or about October 2014, it was moved by you to a 13 storage unit that you just described at 856 South 14 State Street in Jackson until March 4, 2016. And 15 then you took it to Marietta, Georgia to your 16 expert's place of business at Applied Technical 17 Services there; is that correct? 18 A Yes. 19 Q Then you have a description on the second 20 page of your letter of the operation of the 21 motorcycle between September 4, 2014 and May 13, 22 2016. And how did you recall the different laps and 23 brake response and the various things that you have 24 here in this paragraph? 25 A It was a pure guess. I just -- I did the</p>	<p style="text-align: right;">Page 37</p> <p>1 best I can to recall the intent of going out there 2 and my -- my thoughts with how many laps he would 3 have done during that period. Could it have been a 4 few more? It probably wasn't any less. Could it 5 have been a few more, sure. But I know in general, 6 he rode it several laps to make sure he could -- 7 felt comfortable on the bike. And then I know we 8 changed the brake lever positions two or three times 9 or three or four times. And so that's how I came up 10 with this. And that's just the best of my 11 recollection at the time. 12 Q Would Mr. Lind say something to you after 13 each lap? 14 A I don't think he did. 15 Q How do you know whether or not the front 16 brake engaged or not? 17 A That was just my observation of whether or 18 not it locked up. 19 Q So were you looking for the wheel to lock 20 up? 21 A I was. 22 Q And do you know that it's not necessary to 23 lock up the front wheel in order to have a braking 24 force? 25 A According to Mr. Hoover, I understand</p>

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<p style="text-align: right;">Page 38</p> <p>1 that, yeah.</p> <p>2 Q So when you say that the front brake</p> <p>3 engaged on this last final lap at speeds 28 to 30,</p> <p>4 then the front -- you say the front brake engaged,</p> <p>5 so the front wheel was locked?</p> <p>6 A Yes.</p> <p>7 Q You observed it locked?</p> <p>8 A Yes.</p> <p>9 Q And it skidded?</p> <p>10 A I don't know that it skidded but it -- it</p> <p>11 came -- it had more force than anything else. But</p> <p>12 no, did I -- I did not observe it skidding. I do --</p> <p>13 I believe it came very close to locking up, as</p> <p>14 Mr. Hoover will say. Now, whether or not it's -- I</p> <p>15 did not observe it skidding or locking up like I</p> <p>16 would any other lockup, but, yes, it -- it came very</p> <p>17 close of not locking up.</p> <p>18 Q Is that the only time it came close to</p> <p>19 locking up?</p> <p>20 A That I observed it, yes.</p> <p>21 Q Were there some other times that you might</p> <p>22 not have observed it when Mr. Lind was operating it?</p> <p>23 A It is possible when he went to both ends</p> <p>24 of the -- when he went to both ends -- I was</p> <p>25 standing in the middle. So when he went to other</p>	<p style="text-align: right;">Page 39</p> <p>1 ends to turn around or do whatever, I was not able</p> <p>2 to observe any type of braking that he did then.</p> <p>3 Q Do you -- do you know if he locked up the</p> <p>4 rear wheel at any time?</p> <p>5 A I do.</p> <p>6 Q What do you know about that?</p> <p>7 A I just -- I -- I saw him lock up the rear</p> <p>8 wheel. So, I mean, --</p> <p>9 Q How many times did he lock up the rear</p> <p>10 wheel?</p> <p>11 A I only saw it one time.</p> <p>12 Q And how many times did he lock up the</p> <p>13 front wheel?</p> <p>14 A I only saw it one time.</p> <p>15 Q How many times do you think Mr. Lind</p> <p>16 applied the front brake lever during that 2.7 or 2.8</p> <p>17 miles of test riding?</p> <p>18 A I'd say -- I have no idea.</p> <p>19 Q When you say the front wheel you observed</p> <p>20 lock up, how long was it locked up? What was the</p> <p>21 duration in seconds or distance?</p> <p>22 A It was not a second. It was no distance.</p> <p>23 I mean, it was -- it would come to a slow stop.</p> <p>24 It --</p> <p>25 Q Okay.</p>
<p style="text-align: right;">Page 40</p> <p>1 A The -- the bike, as I observed that one</p> <p>2 time, he did not -- the -- of course, I can't see</p> <p>3 his hand movement, but he was not going full speed</p> <p>4 and it locked up and it took several seconds and it</p> <p>5 drug. That did not happen. What happened was he</p> <p>6 was going, it came to a very slow stop, and then</p> <p>7 seconds before the bike came to a complete stop, the</p> <p>8 wheels locked at that point. So --</p> <p>9 Q The front wheel?</p> <p>10 A The front wheel stopped.</p> <p>11 Q Okay.</p> <p>12 A But it was at the end of a rolling stop.</p> <p>13 It was not a lockup as you would observe on a car or</p> <p>14 anything else like that.</p> <p>15 Q Did Preston Lind tell you that the brakes</p> <p>16 were not engaging or is this just something that you</p> <p>17 observed?</p> <p>18 A Well, when you say the brakes, he said the</p> <p>19 back brake worked fine, so the back brake worked</p> <p>20 fine. I observed -- I observed that and that's what</p> <p>21 he told me. The front brakes -- what was your</p> <p>22 question?</p> <p>23 Q Well, did he tell you after each lap how</p> <p>24 the brakes performed or did you just observe how the</p> <p>25 back brakes performed?</p>	<p style="text-align: right;">Page 41</p> <p>1 A I just observed at the end, overall, he</p> <p>2 said, "Yes, this is not performing as it should."</p> <p>3 That was his statement with regard to the front</p> <p>4 brakes. But he did not stop after every ride and</p> <p>5 say -- give me a percentage or anything.</p> <p>6 Q Did Preston Lind ever tell you whoever</p> <p>7 wrecked the bike obviously did not know how to ride</p> <p>8 because there was nothing wrong with the motorcycle?</p> <p>9 A Absolutely not. And that's contrary to</p> <p>10 him saying the brakes still were not functioning</p> <p>11 properly.</p> <p>12 Q Did he say there was nothing wrong with</p> <p>13 the bike?</p> <p>14 A He said there was nothing wrong with the</p> <p>15 back brake.</p> <p>16 Q Did he say there was nothing wrong with</p> <p>17 both brakes?</p> <p>18 A No.</p> <p>19 Q Did you look at the tires after this test</p> <p>20 riding by Preston Lind?</p> <p>21 A I did not.</p> <p>22 MR. MILLER: I'm going to attach this</p> <p>23 series of photos that we had produced attached</p> <p>24 to an affidavit by Todd Hoover, and this will</p> <p>25 be Exhibit 8.</p>

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<p style="text-align: right;">Page 42</p> <p>1 (Exhibit 8 was marked.)</p> <p>2 BY MR. MILLER:</p> <p>3 Q The first series of photos are those that</p> <p>4 were taken at the September 4, 2014 inspection at</p> <p>5 Dan Stubblefield's garage. And then Exhibit 2 of</p> <p>6 Exhibit 8 are photographs taken at the May 13, 2016</p> <p>7 inspection at the Applied Technical Services</p> <p>8 facility in Marietta, Georgia. And did you observe</p> <p>9 the scuff marks on the tires at any time?</p> <p>10 A I think I did at the -- at that</p> <p>11 inspection, yes.</p> <p>12 Q At the May 13, 2016 inspection?</p> <p>13 A Yeah, in Atlanta.</p> <p>14 Q Did you see the scuff marks the day that</p> <p>15 Preston Lind tested the motorcycle?</p> <p>16 A I don't recall.</p> <p>17 Q Do you agree that those scuff marks were</p> <p>18 caused by Preston Lind's test riding?</p> <p>19 A I do. Well, wait a minute. I agree that</p> <p>20 the back tire, Number 15 -- the front tire, I still</p> <p>21 can't see -- I -- I can't see what Todd Hoover is</p> <p>22 seeing with the front tires. But the back tires</p> <p>23 was -- was evident, yes. I'm not saying it -- I'm</p> <p>24 just saying I can't see what Todd Hoover is seeing.</p> <p>25 MR. MALOUF, SR.: And I'm going to object</p>	<p style="text-align: right;">Page 43</p> <p>1 unless you're asking him as an expert or just</p> <p>2 casual observing, you know.</p> <p>3 MR. MILLER: I'm just asking him when he</p> <p>4 observed the scuff marks on the tires.</p> <p>5 MR. MALOUF, SR.: Well, he has answered</p> <p>6 that. On May 13th, he said, 2016.</p> <p>7 BY MR. MILLER:</p> <p>8 Q So you disagree that there's scuff marks</p> <p>9 on the front tire caused by Preston Lind's driving?</p> <p>10 A No, I don't disagree. I just --</p> <p>11 MR. MALOUF, SR.: And, understand, if I</p> <p>12 answer -- understand his question, that's not</p> <p>13 to say he agrees. He doesn't agree or</p> <p>14 disagree. He doesn't know, is my</p> <p>15 understanding, so I don't want any</p> <p>16 misconceptions here.</p> <p>17 A If there are any tire marks on that -- if</p> <p>18 there are any marks on that front tire that were not</p> <p>19 in the photographs at our inspection when it was</p> <p>20 preserved by your experts, any additional marks on</p> <p>21 the front tire would have been done by Preston. So</p> <p>22 I would agree with that.</p> <p>23 BY MR. MILLER:</p> <p>24 Q And you would agree that what Preston Lind</p> <p>25 was doing was testing the motorcycle and the brakes?</p>
<p style="text-align: right;">Page 44</p> <p>1 A No. I mean -- I was trying to analyze</p> <p>2 whether or not it was working. Was it a scientific</p> <p>3 testing, no, it was not. It was a general</p> <p>4 motorcycle rider, does this -- do these brakes</p> <p>5 function as they should? We had a statute of</p> <p>6 limitations coming up. I had to know an answer</p> <p>7 immediately. And the representatives -- the</p> <p>8 representations made by your experts saying that</p> <p>9 there was nothing wrong with the bike, I -- I just</p> <p>10 didn't agree with that, but I wanted to make sure</p> <p>11 before I filed this lawsuit.</p> <p>12 Q Well, after you filed the lawsuit, the</p> <p>13 parties were required to submit initial -- what's</p> <p>14 called initial disclosures, and you on behalf of the</p> <p>15 plaintiffs submitted initial disclosures on</p> <p>16 October 28, 2015, and did not list Preston Lind as a</p> <p>17 witness; is that correct?</p> <p>18 A That's correct.</p> <p>19 Q And also, you responded to interrogatories</p> <p>20 on February 12, 2016, and you did not list Preston</p> <p>21 Lind as a witness there either, did you?</p> <p>22 A That's right. I don't think he's a</p> <p>23 witness. He's an undisclosed consultant and I think</p> <p>24 he's protected. I don't think any of his</p> <p>25 opinions -- I think all of his opinions are</p>	<p style="text-align: right;">Page 45</p> <p>1 protected.</p> <p>2 Q Well, you said that you didn't pay</p> <p>3 Mr. Lind the \$20 for the one hour driving because</p> <p>4 you anticipated some further testing; is that</p> <p>5 correct?</p> <p>6 A Yes.</p> <p>7 Q Did you ever contact him again after this</p> <p>8 test riding?</p> <p>9 A No. It took about a year for y'all --</p> <p>10 everybody to get served, everything to get done.</p> <p>11 And so, I mean, it was a long period of time. And</p> <p>12 then after that, I ended up finding what I thought</p> <p>13 was a better expert, so I had no reason to contact</p> <p>14 him. Well, other than if we were going to do the</p> <p>15 testing in Jackson, he was going to do that.</p> <p>16 Q In your letter of August 2, 2016, that's</p> <p>17 attached as Exhibit 7, you say, "On May 12, 2016,</p> <p>18 the motorcycle battery was replaced and the</p> <p>19 motorcycle was cranked and fitted with a stop gap on</p> <p>20 the front brake lever to prepare for proposed</p> <p>21 functional testing on May 13th. The bike was</p> <p>22 operated by Michael Malouf, Jr. approximately</p> <p>23 100 yards at 15 to 25 miles per hour. The front</p> <p>24 brake did not engage, no scuffs on the front or back</p> <p>25 tires were created. No notes, video, or data was</p>

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<p style="text-align: right;">Page 46</p> <p>1 collected." So at the Applied Technical Services</p> <p>2 facility in Marietta, you rode the bike on May 14 --</p> <p>3 I mean May 13, --</p> <p>4 A Briefly.</p> <p>5 Q -- 2016. Tell me what you did.</p> <p>6 A We -- we decided -- as you know, it was</p> <p>7 last minute -- to try to do the functional testing.</p> <p>8 We were trying to make sure -- we had limited time.</p> <p>9 I wanted to make sure that we had everything</p> <p>10 prepared. The question was whether or not we had</p> <p>11 adequate space to do this. And so we had no idea</p> <p>12 how long it would take to get the bike up to 15 to</p> <p>13 20 miles per hour, and so I did that to see what</p> <p>14 type of spacing. We decided that we didn't have</p> <p>15 enough space, and then the -- the testing didn't go</p> <p>16 forward that day anyhow, so -- that following day.</p> <p>17 Q All right. When you rode the bike, did</p> <p>18 anybody else ride the bike that day?</p> <p>19 A No.</p> <p>20 Q When you rode it, did you squeeze the</p> <p>21 front brake lever when you were cranking the engine?</p> <p>22 A I doubt it.</p> <p>23 Q And how many times did you operate the</p> <p>24 front brake lever that day?</p> <p>25 A Maybe twice.</p>	<p style="text-align: right;">Page 47</p> <p>1 Q And what -- what was the response you got</p> <p>2 from the front brake lever?</p> <p>3 A Well, I put it in position six, because I</p> <p>4 knew that would be the only amount of pressure</p> <p>5 available.</p> <p>6 Q That's the maximum?</p> <p>7 A The maximum distance.</p> <p>8 Q Distance? Okay.</p> <p>9 A Let me say this. I'm sorry. I have no</p> <p>10 idea what levers were on there so I don't know if it</p> <p>11 was position one or position six. I know it was the</p> <p>12 furthest position.</p> <p>13 Q All right. Was this the aftermarket</p> <p>14 levers or the original equipment levers?</p> <p>15 A It was -- all that is well documented.</p> <p>16 Q What happened when you applied the</p> <p>17 brake -- front brake lever?</p> <p>18 A Same thing that -- that happened every</p> <p>19 time it's been applied from the first inspection all</p> <p>20 the way to the last inspection. To my observance,</p> <p>21 it was the exact same pressure that was there on --</p> <p>22 throughout all the inspections.</p> <p>23 Q I mean, did the brake lever touch the</p> <p>24 grip?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 48</p> <p>1 Q Was any brake force achieved?</p> <p>2 A There was some. Minimal. Minimal brake</p> <p>3 force. Same thing that was observed in all of the</p> <p>4 testing. But, again, I was not there to apply</p> <p>5 braking. The question was was there space to run a</p> <p>6 test. The braking was going -- testing was going to</p> <p>7 occur the next day, which did not end up occurring.</p> <p>8 Q Have you ever had a case where ASTM</p> <p>9 standards were an issue or part of the case?</p> <p>10 A Not -- as I sit here today, I don't -- I</p> <p>11 don't believe so.</p> <p>12 Q The standard E 1188-05 titled Standard</p> <p>13 Practice for Collection and Preservation of</p> <p>14 Information and Physical Items by a Technical</p> <p>15 Investigator, and subparagraph 4.2 says, "Obtain and</p> <p>16 preserve physical items as early as possible. Plan</p> <p>17 the investigation to protect physical evidence</p> <p>18 significant to the incident. The plans should</p> <p>19 consider possibility of identity loss, physical</p> <p>20 loss, deterioration or destruction of information</p> <p>21 due to environmental effect, or recovery and</p> <p>22 collection activities. When physical items cannot</p> <p>23 be preserved in their found state, document it."</p> <p>24 You would agree with that, wouldn't you?</p> <p>25 A Yeah. And that was done. That's exactly</p>	<p style="text-align: right;">Page 49</p> <p>1 what y'all did when y'all came in 2014. A video,</p> <p>2 they recorded, they tested the pressure. Suzuki did</p> <p>3 all of that back in 2014. That's exactly what they</p> <p>4 did.</p> <p>5 Q All right. And then the next standard</p> <p>6 that's attached to the letter is E 860-97, Examining</p> <p>7 and Preparing Items That Are or May Become Involved</p> <p>8 in Criminal or Civil Litigation. And its Section</p> <p>9 4.2 says, "If proposed tests, examinations, or other</p> <p>10 actions are likely to alter the nature, state, or</p> <p>11 condition of the evidence so as to preclude or limit</p> <p>12 additional examination and testing, the person,</p> <p>13 firm, or corporation planning to perform the</p> <p>14 proposed actions shall:</p> <p>15 First, "Notify its client that the</p> <p>16 proposed action is likely to alter the nature,</p> <p>17 state, or condition of the evidence so as to</p> <p>18 preclude or limit additional examination or testing</p> <p>19 of the evidence."</p> <p>20 And the next item is, "Recommend that</p> <p>21 its client notify other interested parties of the</p> <p>22 proposed action described in 4.2, and recommend to</p> <p>23 its client that other interested parties be given</p> <p>24 the opportunity to participate in the procedures</p> <p>25 described in 4.1 or to witness and record any such</p>

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<p style="text-align: right;">Page 50</p> <p>1 actions."</p> <p>2 A We did that. I presented all that</p> <p>3 information to you and nothing that we did was</p> <p>4 likely. I'm using your words, I'm not reading it in</p> <p>5 front of me, but you said, is it likely to alter?</p> <p>6 No, it was not likely to alter. Nothing we did was</p> <p>7 likely to alter or change the evidence in any</p> <p>8 manner. And as we sit here today, there's nothing</p> <p>9 been changed with regard to the front brake.</p> <p>10 Q But you agree you did not invite any</p> <p>11 representative of Suzuki Motor Corporation or</p> <p>12 representative of Nissin Kogyo to the test riding</p> <p>13 performed by Preston Lind?</p> <p>14 A I did. I invited y'all in my April</p> <p>15 letter. I invited y'all to come do an inspection,</p> <p>16 do riding, take apart the front brake master</p> <p>17 cylinder, do all of that. And Suzuki said they were</p> <p>18 done, they had got all the information they needed,</p> <p>19 they preserved the bike, and Suzuki said they didn't</p> <p>20 want to do any additional testing. And that's what</p> <p>21 was personally told to me, and both you and</p> <p>22 Mr. Jicka were there when all that was made in the</p> <p>23 presence of, what, five experts that were there on</p> <p>24 behalf of Suzuki and Nissin.</p> <p>25 Q But after the September 4, 2014,</p>	<p style="text-align: right;">Page 51</p> <p>1 pre-litigation examination, you received the letter</p> <p>2 that's marked as Exhibit 4 from Suzuki Motor</p> <p>3 Corporation asking that a representative be present</p> <p>4 if you do any further inspection or testing; right?</p> <p>5 A That was not going to be possible.</p> <p>6 Q Why is that?</p> <p>7 A Because I had a statute of limitations</p> <p>8 within the month. It took y'all seven months to get</p> <p>9 there and y'all already stated that you did not want</p> <p>10 to do any additional testing. Y'all should have</p> <p>11 done more testing. Y'all had -- y'all were supposed</p> <p>12 to take apart the master cylinder. There was</p> <p>13 supposed to be a lot of additional testing that</p> <p>14 Suzuki said no, we're done, we don't want to</p> <p>15 participate in any other testing. That's what was</p> <p>16 said at that date.</p> <p>17 Q And Mr. Mark Jicka sent you a letter dated</p> <p>18 October 21, 2014, attached as Exhibit 5. It says,</p> <p>19 "If you decide to continue with this claim and file</p> <p>20 suit, please preserve the motorcycle in its current</p> <p>21 condition. And if you plan to do any further</p> <p>22 inspection or testing of the motorcycle, please give</p> <p>23 us prior notice so we can have an opportunity to be</p> <p>24 present." Is that correct?</p> <p>25 A I think I complied with both of those.</p>
<p style="text-align: right;">Page 52</p> <p>1 Q Are you sure you didn't take any photos on</p> <p>2 the Preston Lind testing day?</p> <p>3 A Yes.</p> <p>4 Q Did either you or Preston Lind prepare any</p> <p>5 sort of protocol for that testing?</p> <p>6 A No. There was no protocol. It was -- it</p> <p>7 was going to be a very subjective opinion by him,</p> <p>8 whether or not the brakes were properly working.</p> <p>9 There was no protocol. It was --</p> <p>10 Q Was Mr. Lind wearing riding gloves during</p> <p>11 the testing?</p> <p>12 A He was in full gear. I believe he was</p> <p>13 riding -- I'm sure he was, yes.</p> <p>14 Q Do you know what kind of gloves he was</p> <p>15 wearing?</p> <p>16 A No.</p> <p>17 Q Do you know how he had his hand on the</p> <p>18 front brake lever?</p> <p>19 A No. This was not done to simulate. This</p> <p>20 was not done to recreate. It was not done for any</p> <p>21 other purpose other than to validate Suzuki's</p> <p>22 opinions that the brakes were perfectly working at</p> <p>23 the end of their inspection. I wish Suzuki had been</p> <p>24 more forthcoming with their investigation at that</p> <p>25 time. This would not have been necessary.</p>	<p style="text-align: right;">Page 53</p> <p>1 Q After the Preston Lind testing at the JFC</p> <p>2 complex, did you take the bike back on the trailer</p> <p>3 to the warehouse on South State Street?</p> <p>4 A Yes.</p> <p>5 Q And it stayed there until you took it to</p> <p>6 Marietta, Georgia?</p> <p>7 A Yes.</p> <p>8 Q Was it cranked at all between the time</p> <p>9 when it was in the warehouse --</p> <p>10 A It was.</p> <p>11 Q -- before you took it to Marietta?</p> <p>12 A Yes.</p> <p>13 Q How many times was it cranked?</p> <p>14 A Maybe twice.</p> <p>15 Q And did you do that?</p> <p>16 A Yes, I think I did.</p> <p>17 Q Okay. Did you operate the front brake</p> <p>18 lever at any time --</p> <p>19 A No.</p> <p>20 Q -- when it was in the warehouse?</p> <p>21 A (Witness shaking head in the negative.)</p> <p>22 MR. MALOUF, SR.: Let him finish asking</p> <p>23 the question.</p> <p>24 THE WITNESS: Oh, I'm sorry. Go ahead.</p> <p>25 Finish your question.</p>

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<p style="text-align: right;">Page 54</p> <p>1 BY MR. MILLER:</p> <p>2 Q Did you operate the front brake lever when</p> <p>3 it was in the warehouse after the Preston Lind</p> <p>4 riding and the time you took it to Marietta?</p> <p>5 A I did not, no.</p> <p>6 MR. MILLER: Let me take a brief break</p> <p>7 here.</p> <p>8 (A short break was taken.)</p> <p>9 MR. MILLER: Y'all ready to go back on the</p> <p>10 record?</p> <p>11 MR. MALOUF, SR.: Yes, sir.</p> <p>12 BY MR. MILLER:</p> <p>13 Q Mike, I have a few more questions.</p> <p>14 A Sure.</p> <p>15 Q When you observed the parking lot testing</p> <p>16 in the time that Preston Lind was able to lock up</p> <p>17 the front wheel, did that occur on the chip seal or</p> <p>18 on the asphalt?</p> <p>19 A Chip seal mostly. I don't know that he</p> <p>20 did anything on the regular asphalt, and I don't</p> <p>21 want -- Preston Lind's riding was very similar, I</p> <p>22 guess, to the subsequent riding we all observed out</p> <p>23 there with regard to what happened during the first</p> <p>24 several rides. It just -- I -- there's no -- I</p> <p>25 don't -- you keep saying lock up. It -- like I</p>	<p style="text-align: right;">Page 55</p> <p>1 said, -- but the stuff that he was doing was on the</p> <p>2 chip seal.</p> <p>3 Q I'm going to show you an e-mail on Friday,</p> <p>4 July 29, 2016.</p> <p>5 THE COURT REPORTER: Do you want this 9?</p> <p>6 MR. MILLER: Yeah. This will be the next</p> <p>7 exhibit, 9.</p> <p>8 (Exhibit 9 was marked.)</p> <p>9 BY MR. MILLER:</p> <p>10 Q And you sent an e-mail to me, saying --</p> <p>11 and copied others -- "Pursuant to the Court Order</p> <p>12 today, the consultant that drove the subject</p> <p>13 motorcycle is Mr. Preston Lind. His number is</p> <p>14 850-255-0007. I will try to get in touch with him</p> <p>15 today to set up a deposition ASAP. Because he is</p> <p>16 considered a consultant, I do not agree to any</p> <p>17 ex-parte communication."</p> <p>18 And so do you remember the telephonic</p> <p>19 hearing with Judge Anderson that led to her ordering</p> <p>20 that the participants in this testing be deposed?</p> <p>21 Do you recall that hearing on the telephone?</p> <p>22 A In general.</p> <p>23 Q And do you recall that you could not</p> <p>24 remember Mr. Lind's name at that hearing?</p> <p>25 A That would not be unusual, I guess. I</p>
<p style="text-align: right;">Page 56</p> <p>1 don't know.</p> <p>2 Q And then you e-mailed me and said you were</p> <p>3 unable to reach him, you haven't spoken to him in</p> <p>4 about two years, and you authorized me to have an</p> <p>5 investigator locate him and that sort of thing. And</p> <p>6 then it turns out that he passed away in May of</p> <p>7 2016, I believe. Did you ever learn about his</p> <p>8 passing?</p> <p>9 MR. MALOUF, SR.: At what point? You</p> <p>10 said, "Did you ever learn about his passing?"</p> <p>11 Of course he has learned.</p> <p>12 MR. MILLER: Yeah.</p> <p>13 MR. MALOUF, SR.: What time point are you</p> <p>14 making?</p> <p>15 A Yeah. I heard he -- I heard he committed</p> <p>16 suicide. So that's -- I don't ask many questions</p> <p>17 after that.</p> <p>18 BY MR. MILLER:</p> <p>19 Q Apparently, one of your relatives,</p> <p>20 Mitchell Malouf, attended the -- either the funeral</p> <p>21 service or visited at the funeral home. Is Mitchell</p> <p>22 Malouf a cousin?</p> <p>23 A He's an uncle -- it's possible. I've got</p> <p>24 a Mitchell Malouf and Mitchell Malouf, Jr. One is</p> <p>25 an uncle. One is a cousin.</p>	<p style="text-align: right;">Page 57</p> <p>1 Q Okay. Did you ever talk to Mitchell</p> <p>2 Malouf about Preston Lind or did you know that they</p> <p>3 knew each other?</p> <p>4 A I think at the deposition y'all informed</p> <p>5 me of that. I didn't know.</p> <p>6 Q And you were present, were you not, for</p> <p>7 the deposition of Jennifer Lind?</p> <p>8 A Yeah.</p> <p>9 Q And you reviewed the affidavit that</p> <p>10 Jennifer Lind submitted to the Court?</p> <p>11 A I think you gave it to me the day of her</p> <p>12 deposition. I don't know why it wasn't produced</p> <p>13 earlier but...</p> <p>14 Q And in her deposition and in her</p> <p>15 affidavit, Jennifer Lind said words to the effect</p> <p>16 that whoever was riding the bike did not know what</p> <p>17 they were doing because there's nothing wrong with</p> <p>18 it. Do you recall that?</p> <p>19 A I recall that. I do. I -- she has no</p> <p>20 basis for that statement whatsoever, which is of</p> <p>21 course why it would be hearsay. And I think your</p> <p>22 experts would disagree with that as well and they</p> <p>23 have disagreed with it.</p> <p>24 MR. MALOUF, SR.: Is this an exhibit,</p> <p>25 Bobby, or are you just asking about that?</p>

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<p style="text-align: right;">Page 58</p> <p>1 MR. MILLER: Just asking the question.</p> <p>2 MR. MALOUF, SR.: Okay. Not the exhibit</p> <p>3 -- I'm talking about the e-mail. I just want</p> <p>4 to make sure.</p> <p>5 MR. MILLER: Yeah. Yeah. It's Exhibit 9.</p> <p>6 MR. MALOUF, SR.: Okay.</p> <p>7 BY MR. MILLER:</p> <p>8 Q So do you think Jennifer Lind just made</p> <p>9 that up, that she recalled Preston saying that</p> <p>10 following the test ride he told Mr. Malouf that</p> <p>11 whoever wrecked the bike obviously did not know how</p> <p>12 to ride because there was nothing wrong with the</p> <p>13 motorcycle?</p> <p>14 A I think everything Ms. Lind testified to</p> <p>15 was not truthful. It was not accurate. And I think</p> <p>16 she was distraught over her son. And I -- I don't</p> <p>17 think she was clearly thinking. And I don't think</p> <p>18 Preston was -- you know, I don't think he said those</p> <p>19 things at all to her.</p> <p>20 Q Well, she also said that Mr. Malouf never</p> <p>21 paid Preston for the test riding the motorcycle.</p> <p>22 And that's true, though, isn't it?</p> <p>23 A That would be -- that's -- that's half</p> <p>24 true, but yes.</p> <p>25 MR. MILLER: I'm going to pass the</p>	<p style="text-align: right;">Page 59</p> <p>1 witness.</p> <p>2 MR. JICKA: I've got no questions.</p> <p>3 MR. MALOUF, SR.: Gentlemen, it's been a</p> <p>4 pleasure.</p> <p>5 THE WITNESS: Well, I mean, --</p> <p>6 MR. MALOUF, SR.: Do you want to take a</p> <p>7 break?</p> <p>8 THE WITNESS: No. I'm just making sure I</p> <p>9 answered all his questions. We'll take a</p> <p>10 two-second break.</p> <p>11 MR. MILLER: Okay.</p> <p>12 (A short break was taken.)</p> <p>13 MR. MALOUF, SR.: Let me ask just a couple</p> <p>14 of questions to maybe clarify position.</p> <p>15 EXAMINATION</p> <p>16 BY MR. MALOUF, SR.:</p> <p>17 Q Mike, Mr. Miller has asked you quite a few</p> <p>18 questions about the day Preston Lind rode the</p> <p>19 motorcycle, and I think you testified that earlier</p> <p>20 that I think in September 2014, they had had a</p> <p>21 pre-litigation inspection, both Nissin and Suzuki.</p> <p>22 Based upon what you observed Preston Lind, was there</p> <p>23 any different operation of the brakes when Preston</p> <p>24 Lind operated as when the pre-litigation inspection</p> <p>25 or the subsequent inspection of the brakes?</p>
<p style="text-align: right;">Page 60</p> <p>1 A Based on my observation and based on the</p> <p>2 testing that all the experts have done, the brake</p> <p>3 has performed the exact same throughout their very</p> <p>4 first inspection in 2014 all the way to the</p> <p>5 inspection of 2017. Based on my observation and</p> <p>6 everything that I've seen, the brakes have always</p> <p>7 done the exact same. There's been no altering or</p> <p>8 deviation in the performance of the brakes. They've</p> <p>9 had the same performance from when they preserved</p> <p>10 the evidence back in 2014 until the most recent</p> <p>11 taken apart in 2017.</p> <p>12 Q Okay. And let me ask you this. Would</p> <p>13 that also include when Preston Lind rode the bike?</p> <p>14 A The day he rode the bike, what I observed</p> <p>15 him pulling was the exact same condition of the bike</p> <p>16 and the exact same condition it is now. With regard</p> <p>17 to the ability of it stopping was the exact same</p> <p>18 thing that we observed in the -- in the following</p> <p>19 ride test. There's no difference.</p> <p>20 Q Okay. Now, when was the date of the</p> <p>21 accident, as you recall?</p> <p>22 A It was, what, two thousand --</p> <p>23 Q January 2012?</p> <p>24 A Yeah.</p> <p>25 Q And their pre-litigation inspection was</p>	<p style="text-align: right;">Page 61</p> <p>1 what month? Do you remember?</p> <p>2 A September 2014, so that would be the most</p> <p>3 accurate of anything that's been done.</p> <p>4 Q Okay. And when was it that Preston Lind</p> <p>5 rode it? Was it in November 2014?</p> <p>6 A -- It was a couple of weeks after -- a couple</p> <p>7 of weeks or so after -- after their -- after this</p> <p>8 inspection by Suzuki and N.K.</p> <p>9 Q Couple of weeks or couple of months, you</p> <p>10 think? If they did theirs in September, --</p> <p>11 A Oh, yeah, it would have been more than a</p> <p>12 couple of weeks. So, yeah.</p> <p>13 Q Okay. And you had -- they had asked you</p> <p>14 about I think Exhibits maybe 2 and 3 and 4 about</p> <p>15 preservation letter. Did you do anything to violate</p> <p>16 the preservation that they requested?</p> <p>17 A No. It was properly preserved. That's</p> <p>18 exactly the purpose of them coming in there to do</p> <p>19 any and all testing. And that's what was done, so</p> <p>20 there's been no change in the master cylinder, no</p> <p>21 change in the brakes. There's been no change</p> <p>22 whatsoever in the evidence. So that's it.</p> <p>23 MR. MILLER: Okay.</p> <p>24 THE WITNESS: Thank you.</p> <p>25 MR. THOMAS: Bobby, one thing.</p>


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1 (Off-the-record discussion.)		1	CORRECTIONS AND SIGNATURE
2 (A short break was taken.)		2	
3 MR. MILLER: We have no further questions.		3	PAGE/LINE CORRECTION REASON FOR CHANGE
4 THE WITNESS: All right. Thank you guys.		4	
5 (Deposition concluded.)		5	
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1 I, MICHAEL J. MALOUF, JR., ESQ, have read the		1	REPORTER'S CERTIFICATE
2 foregoing deposition and hereby affix my signature		2	DEPOSITION OF MICHAEL J. MALOUF, JR., ESQ
3 that same is true and correct, except as noted		3	SEPTEMBER 11, 2017
4 above.		4	I, Melinda K. Bowers, Certified Court
5		5	Reporter and Notary at Large in and for the State of
6 MICHAEL J. MALOUF, JR., ESQ		6	Mississippi, do hereby certify that the foregoing
7 THE STATE OF _____)		7	pages, and including this page, contain a true and
8 COUNTY OF _____)		8	correct transcript of the testimony of the witness,
9 Before me, _____, on this day		9	as taken by me at the time and place heretofore
10 personally appeared MICHAEL J. MALOUF, JR., ESQ,		10	stated in the aforementioned matter, by machine
11 known to me (or proved to me under oath or other		11	shorthand with electronic verification, with the
12 document) to be the person whose name is subscribed		12	assistance of computer-aided transcription, to the
13 to the foregoing instrument and acknowledged to		13	best of my skill and ability.
14 consideration therein expressed.		14	I further certify that I placed the
15 Given under my hand and seal of office this _____		15	witness under oath to truthfully answer all
16 day of _____ A.D., 2017.		16	questions in this matter under the authority vested
17		17	in me by the State of Mississippi.
18		18	I further certify that I am not in the
19 NOTARY PUBLIC IN AND FOR		19	employ of, or related to, any counsel or party in
20 THE STATE OF _____		20	this matter, and have no interest, monetary or
21 My Commission Expires: _____		21	otherwise, in the final outcome of the proceeding.
22		22	Witness my seal and signature on this 4th
23		23	day of October, 2017.
24		24	
25		25	Melinda K. Bowers, CCR 1556 Notary Public #57665 My Commission Expires: October 24, 2019

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